

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR THE IMPOSITION OF A MORATORIUM ON THE PROCESSING OF APPLICATIONS AND ON THE ISSUANCE OF DEVELOPMENT ORDERS AND PERMITS FOR THE CONVERSION OF MULTI-FAMILY APARTMENT BUILDINGS WITH FIVE (5) OR MORE UNITS, TO SHORT-TERM RENTALS; PROVIDING FOR VESTED RIGHTS, APPEALS, AND EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR A NINE (9) MONTH TERM TO BE EXTENDED IF NECESSARY BY THE CITY COMMISSION; PROVIDING FOR EARLY TERMINATION; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission and the City's Planning and Zoning Board, Local Planning Agency, have previously undertaken the necessary studies and adopted a Comprehensive Plan to guide and control growth in the city; and

WHEREAS, the goals, objectives and policies contained within the City's adopted Comprehensive Plan requires that the City:

- i. Annually review and periodically update adopted land development regulations and established procedures that encourage the elimination or reduction of uses inconsistent with the City's character and Future Land Use Plan. (Future Land Use Element-objective Inconsistent Land Uses – 01.03.00);
- ii. Support and promote hotels, motels and other tourist accommodations in designated residential, commercial and commercial recreation land use designations. (Future Land Use Element – Policy - 01.03.10);
- iii. Encourage the adoption of innovative land development regulations. Adopt new land use designations for Residential, Mixed Use, Transportation Oriented Districts, Transportation Oriented Corridors and amend the land development

regulations, including the creation of new zoning districts for these land use designations. (Future Land Use Element – Objective New Land Use Regulations – 01.07.00); and

- iv. Continually review and amend new land use designations for Residential, Mixed Use and Transportation Oriented Districts. (Future Land Use Element – Policy - 01.07.02); and

WHEREAS, the City has observed an increasing trend of apartment complexes converting to short-term rental usage; and

WHEREAS, the conversion trend is increasingly occurring in older apartment complexes including areas east of Federal Highway and on the barrier island; and

WHEREAS, a moratorium on the conversion of certain apartment buildings to short-term rentals would provide City staff ample time to research the issues and impacts of this trend as well as regulatory options. Said options may include prohibition in certain areas of the City and the development of approval procedures; and

WHEREAS, Broward County Code of Ordinances Sec. 31½ -16(1) levies and imposes a tourist development tax throughout Broward County, Florida, at a rate of two percent (2%) of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreation vehicle park, tourist or trailer camp, or condominium for a term of six (6) months or less.

WHEREAS, a moratorium will also permit City staff to formulate use-specific standards including off-street parking and unit sizes, density provisions and other considerations related to the conversion of apartment buildings to short-term rentals; and

WHEREAS, City staff needs adequate time to formulate any proposed changes to the current Code of Ordinances and to place same before the City Commission by ordinance to

determine if the proposed modifications to same would be in the best interest of the health, safety and welfare of its citizens; and

WHEREAS, in accordance with Florida Statutes, Section 166.041(3)(c)(2), advertisements in accordance with said statute have been published in a newspaper of general paid circulation in the City of Pompano Beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed ordinance; and

WHEREAS, two public hearings have been held pursuant to said published hearings, at least one of the hearings being held after 5 p.m. on a week-day, and all persons so desiring had the opportunity to be, and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. Moratorium Imposed; Applicability.

During the time this moratorium shall be in effect as specified herein, there shall be a moratorium upon the acceptance of applications and the issuance of zoning use certificates, business tax receipts and of all development orders and permits, as defined in Section 163.3164, Florida Statutes, (collectively Development Orders), approving any and all conversions of multi-family apartment buildings with five or more units to short-term rentals. For purposes of this ordinance, a short-term rental shall be any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreation vehicle park, tourist or trailer camp, or condominium for a term of six (6) months or less.

SECTION 2. Vested Rights

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

1. A governmental act of development approval obtained prior to the effective date of this Ordinance; and
2. Upon which the owner has detrimentally relied, in good faith, by making such a substantial change in position or incurring such extensive obligations and expenses; and
3. That it would be highly inequitable to deny the property owner the right to complete development.

B. Except as provided by paragraph (C) below, any property owner claiming to have vested rights under this Section must file an application with the City Manager for a vested rights determination within thirty (30) days after the effective date of this Ordinance. The application shall be accompanied by a fee of \$600.00 and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the City Manager and other documentary evidence supporting the claim. The City Manager shall review the application and, based upon the evidence submitted, shall make a determination as to whether the property owner has established vested rights. The City Manager's decision shall be subject to appeal by the applicant for vested rights determination or by a third party claiming to be adversely affected by the City Manager's decision, provided that the third party can demonstrate a legally recognizable interest which is or will be affected by the decision and that such interest, which while it may be shared in common generally with other members of the community, is definite and exceeds in degree the general interest in the community good shared by all persons. Such appeals may be made to the City Commission by notice of appeal filed with the City Manager within ten (10) days after the City Manager's written decision. In the event of a timely appeal, the City Commission shall hold a public hearing on appeal and, based upon the evidence submitted, shall make a determination as to whether or not the property owner has established vested rights. To the extent that a property owner demonstrates vested rights, the moratorium shall not be applied to that owner.

C. Any property owner establishing vested rights under this Section shall not be subject to this moratorium and shall be authorized to apply for Orders, and Permits in accordance with a Vested Rights Determination Agreement to be executed by the City and the property owner. A copy of the Vested Rights Determination Agreement shall be filed with the City Clerk, accompanied by a letter which references this paragraph (C) within Forty-five (45) days after the effective date of the City Commission's determination under this Section.

SECTION 3. Appeals. Appeals from final decision by the City Commission under Section 2 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipalities.

SECTION 4. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim unless he or she has first exhausted all administrative remedies provided for in Section 2.

SECTION 5. Term.

The moratorium imposed by this ordinance is temporary and, unless dissolved earlier by the City, shall automatically dissolve in nine (9) months from the effective date of this ordinance, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by ordinance of the City Commission.

SECTION 6. Early Termination.

The moratorium imposed by this ordinance may terminate prior to its nine (9) month period upon the passage of ordinances regulating conversions of multi-family apartment buildings to short-term rentals, provided:

1. specific language terminating the moratorium is contained within said enacted ordinance; or by
2. passage of another ordinance providing for termination by the City Commission.

SECTION 7. All ordinances or parts of ordinances in conflict herewith be and the same are hereby revoked.

SECTION 8. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 9. This ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2017.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/sh
3/24/17
l:ord/2017-168